

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on March 28, 2003 at 8:00
A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 218, 2/11/2003; HB 2, 3/22/2003
Executive Action: SB 218

EXECUTIVE ACTION ON SB 218

CHAIRMAN TOM ZOOK advised they had committee business regarding **SB 218** that the Subcommittee on District Court Funding worked on.

Motion: **SEN. JOHN ESP** moved that **SB 218 (SB021802.atp)** **BE AMENDED. EXHIBIT (fcs66a01)**

Motion: **SEN. ESP** moved that **SB 218 DO PASS AS AMENDED.**

Discussion:

SEN. BEA MCCARTHY asked about the compensation of former county employees in Section 14, lines 21-24, and Sections 2 and 3.

SEN. MIKE WHEAT advised on page 12, New Section 14, line 21, the employees that come on board with the state on July 1, 2004, at the rate of pay and benefit package they had on July 1, 2003. They were trying to ensure the salary level for those employees.

SEN. MCCARTHY asked about a concern for the employees that came on in 2001, and if any exist. **SEN. WHEAT** said no.

SEN. ROYAL JOHNSON asked why they picked July 2003, instead of going back to January of 2003 to assure there were no changes in salary.

SEN. WHEAT advised they could have. Other parts of the bill become effective July 1, 2003.

SEN. TRUDY SCHMIDT asked about Section 8, and wondered about the deputy public defenders.

SEN. WHEAT advised they will serve according to the policies and procedures adopted by the Commission. Under the **Supreme Court** pay plan, they are exempt.

SEN. SCHMIDT asked about the indigent defense account in Section 13.

SEN. WHEAT advised when they first started looking at **SB 134** and **SB 218**, they were looking at the budget numbers for the **Supreme Court**. Indigent Defense was in a huge category of variable expenses. Rather than budgeting that amount directly to the **Public Defender System** or the **Supreme Court**, the Subcommittee agreed to create this variable expense account. If either the **Public Defender System** or the **Supreme Court** runs out of funds,

they can go to the Budget Director and ask for additional monies for unanticipated expenses that exceed the budget.

SEN. SCHMIDT asked what happens if the budget director turns down the request.

SEN. ESP advised the concept may need to be revised in **House Appropriations**.

SEN. WHEAT advised **SEN. JEFF MANGAN** worked on the budget numbers.

SEN. MANGAN stated when the Subcommittee looked at the Public Defender and Indigent Defense numbers, they went back to the reimbursement mechanism in the numbers from the counties in 2001. In working with the **Department of Revenue** and the Budget Office, they took all the reimbursement numbers from 2001 and broke them down into District Court, Juvenile Probation, Indigent Defense and Public Defender. When they did that, they were able to plug specific receipts into those specific areas. There was approximately \$1.8 million in professional services and other services, and they could not determine if it belonged to Indigent Defense, Juvenile Probation, or District Court. They felt the best thing to do, rather than arbitrarily splitting that out, is to put some kind of contingent fund for that \$1.8 million that could be accessed by both the **Department of Administration** under **SB 218**, or the District Court.

SEN. SCHMIDT asked about Section 14, line 19, and the language "may be transferred". She felt it should read "shall be" so it is square with lines 10 and 11 in the title of the bill.

SEN. WHEAT advised once the Chief Public Defender is on board, it will be his responsibility to structure the program in all the communities where there is a Public Defender System in place. Most other counties contract for Public Defender services. Some of those may come on board, and some may not. They were trying to be flexible.

SEN. SCHMIDT asked about the fiscal note.

SEN. ESP advised until the bill is amended and there is a committee report, they can't get another fiscal note.

SEN. SCHMIDT wondered about Section 21, lines 15 and 16.

SEN. WHEAT advised it is a savings clause which states for anything that has occurred that has rights or duties attached to it that arose before this act, this act will not interfere with it.

SEN. SCHMIDT asked if it relates to paying for costs that start in 2004 and go into 2005.

Valencia Lane, Legislative Services, advised it is a standard saving clause that relates to contractual rights that exist at the time of the bill.

Vote: Motion that SB 218 DO PASS AS AMENDED carried unanimously.

RECONVENE HEARING ON HB 2

Section D:

REP. STAN FISHER advised Section D consists of the **Crime Control Division, Justice Department, Public Service Regulation, Corrections, Labor and Industry, and Military Affairs**. The **Crime Control Division** budget is primarily federal special funds because they receive grant monies from the federal government and distribute it to local agencies. They have a little over \$3 million in general fund. The legislative budget is \$32,900 below the Executive budget in general fund, based on a total reduction of 1% of the general fund. The legislature approved an unspecified reduction, allowing the division to determine how to allocate that reduction. The division allocated the reduction of \$336,000 general fund to the Juvenile Detention Grants. In addition the legislature approved a further reduction of \$84,000 in Juvenile Detention Grants. He read the budget highlights on page D-1 of the Narrative. He explained the functions of the **Department of Justice**. Their budget consists of \$46 million in general fund, \$54 million in state special revenue, \$7 million in federal, and \$1.6 million in proprietary. The legislative budget is 9.15 FTE's below the Executive budget and \$6.9 million less general fund for the biennium. Total funds were decreased by \$1 million for the biennium. He read the budget highlights on page D-5. The computer crime unit was given to them in lieu of 3 FTE's. The computer crime unit had been funded with federal funds that were no longer available. Six new FTE's in the Executive Budget were not approved. They were attached to federal funds the department feels they no longer will receive. State special revenue for debt service was increased by \$500,000 above the Executive request.

SEN. JOHNSON asked about the 3.15 FTE's on page D-4 and the switch to the Commissioner of Higher Education. He wondered if that was to fill a vacancy or void, and how they came to that situation. **REP. FISHER** had no explanation. *{Tape: 1; Side: B}* He advised it was a request made by **REP. JOHN WITT**.

SEN. JOHNSON asked about the 6 FTE's that were not authorized and what was the program for. **REP. FISHER** wasn't familiar with the program, but the 6 FTE's were funded by federal funds that the department did not feel they would be able to get.

Lorene Thorson, Legislative Fiscal Division, advised it was spread out through the department. Some of it was Homeland Security funds, etc.

SEN. MIKE COONEY asked about the switch from highway state special revenue in the motor vehicle division. It was done in the previous special session to displace some general fund. He wondered if that trend would continue. **REP. FISHER** advised it was done in order to get some general fund money. He couldn't imagine why they would continue to do it, unless there was some need for general fund.

CHAIRMAN ZOOK asked **Larry Fasbender, Department of Justice**, to comment.

Director Fasbender said in the thirty years in office, this is the most challenging budget he had ever seen the legislature have to work on. Prior to the special session they began to take a look at their operations. They adopted some changes and efficiencies which resulted in some general fund savings. They received a request from **REP. JEFF PATTISON** during the special session to see if there was some way to move the general fund in the Law Enforcement Academy to another source. They worked on that with the **Office of Budget and Program Planning**. They recommended a surcharge on cases before the courts of limited jurisdiction in **HB 124** that would allow taking the Law Enforcement Academy off the general fund. He advised **SEN. EMILY STONINGTON** had asked how many pieces of legislation were contingent on being passed in order to fund **HB 2**. He passed out a list of bills they had been working on in the department to either replace or generate general fund. **EXHIBIT(fcs66a02)** The **Motor Vehicle Division** is one of the main divisions in their department that can generate revenue. They revised a lot of processes, standardized some of their fees, and in the process an additional \$3.3 million is going to be available to the general fund. **HB 124** is another \$2.2 million. \$5 million has been generated through various efficiencies and changes. One of their concerns is the cut of 3.15 FTE's. Like every other agency in state government, losing any position creates a hardship as far as carrying out their responsibilities. They held positions open for a period of time in order to meet their budget. At least two of the positions they lost were in legal services, one in the Appellate Bureau, and in the Prosecution Services Bureau. The Appellate Bureau has the same number of people they had in 1976.

The caseload has doubled in that time. Technology has been implemented to keep up with those cases, but losing one more position will make it that much more difficult, especially in light of the fact they still have the 4% vacancy savings to meet. They will be working with the court requesting extensions of some of these cases. Losing the position in the Prosecution Services Bureau has an impact in rural Montana when major crimes are committed there. The meth problems in the state affect rural counties and the bureau assists small counties with those major cases. The 1% across the board cut is in excess of \$400,000. They have backlogs in the forensic area already, and are six or seven months behind in the chemistry section. Every time they lose one person in Motor Vehicle, it is the equivalent of closing down five satellite stations. They will have to come up with ways to make up for the \$400,000.

SEN. ESP asked about **HB 124** and the increased revenue over the last biennium.

Director Fasbender advised they will still be spending money from another source--a state special revenue account, but there is a net gain to the general fund of \$2.2 million.

SEN. KEITH BALES expressed concern about the Fire Marshals.

Director Fasbender advised there was discussion in **House Appropriations**, and people in rural areas expressed concern. As the size of the Fire Marshall is diminished, the responsibilities they currently have under the law, especially with respect to public buildings, particularly schools, can't get done. With the staff they had before, they were only getting around to some of those buildings every two or three years. They requested the funding be restored and a portion was restored. They are three short in that division from what they were from the special session.

SEN. SCHMIDT asked if the money that was transferred from the **Highway Department** to the **Justice Department** could have been used to match federal highway funds.

Director Fasbender advised they have sufficient funds to match any of the federal funds they have. The \$6 million that was removed for the biennium to replace general fund money for the **Motor Vehicle Department** will not effect the highway building program this time around.

SEN. JOHNSON asked about the Highway Patrol on page D-5.

Director Fasbender said there was no increase as far as the operation of the Highway Patrol.

CHAIRMAN ZOOK advised it is not an increase, it is a percentage of 100%.

REP. FISHER said the cost increase they experienced in the Highway Patrol was due primarily to overtime and the cost of incarceration when they pick somebody up and put them in a county jail. They have had an increase in DUI arrests this past biennium.

SEN. BALES believed there was also an increase in the cost of fuel.

SEN. COONEY stated he saw in a news report that several highway patrolmen had been lost due to the fact they are in the Reserves or the National Guard and are now being shipped out overseas. He wondered if they would be short highway patrolmen out on the road, or will they be replaced.

Director Fasbender said they have lost eight highway patrol who have been called up, and there is the potential for another twelve. It is a serious problem and they are trying to move people around to high priority areas as that occurs. They don't have the funding to replace those people.

CHAIRMAN ZOOK asked if the bonus retirement were to pass, if some of the officers in that division would be affected.

Director Fasbender advised **HB 360** is a very substantial threat to their department. They will lose between 30-50 people, and a large number of those are going to be in the Highway Patrol. They have a serious problem, currently, as they can't replace some of those positions for three months. It especially affects people in their dispatch centers. The best thing they can do is draft legislation that would allow them to be exempt from that process because of the public safety issues that are involved. Dispatch positions have to be manned 24 hours a day. A large number of people in the Highway Patrol are going to be eligible for that retirement.

SEN. ESP asked if the \$2.2 million is in **HB 124** from last session or this session.

Director Fasbender clarified it is not the "big bill". **HB 124** from this session has \$2.2 million.

SEN. GREG BARKUS asked about an issue discussed early in the session regarding license plates.

Director Fasbender said they had looked at going to a single license plate. There was concern by local law enforcement and the **Highway Patrol** that only one plate would make it more difficult to identify cars involved in an incident. Instead they eliminated one decal, which saves the state \$325,000 for the biennium.

SEN. BARKUS asked if there are lots of states with only one license plate.

Director Fasbender indicated there are a number of states with one license plate, but the majority have two.

REP. FISHER addressed the budget highlights of the **Public Service Regulation Program** on page D-29 of the Narrative. The regulators consist of five elected Public Service Commissioners. They are funded with 100% state special revenue funds and federal funds. Their funding is derived from fees levied on regulated companies. The budget approved by the Legislature reduced the Executive budget by \$176,051 state special revenue, and eliminated 1 FTE.

Bob Rowe, Public Service Commission, advised the Subcommittee was very tough and thorough and they appreciated their work.

REP. FISHER advised the **Department of Corrections** is made up of five different divisions. The legislature approved the general fund budget at the level of the Executive budget. Approximately \$6.6 million of the general fund is contingent upon passage and approval of **HB 750**. He read from the Narrative beginning on page D-32. *{Tape: 2; Side: A}*

CHAIRMAN ZOOK asked how much is designated to **Corrections** in **HB 750**.

REP. FISHER advised \$6.6 million.

Joe Williams, Department of Corrections, referred to the packet they were handed, including a Legislative Report, and a statistical analysis, and encouraged everyone to read it.

EXHIBIT (fcs66a03) He handed out a table of Average Daily Population (ADP) growth from 1988 to 2005. **EXHIBIT (fcs66a04)** He referred to an article in the paper about a huge meth bust, and remarked about the amount of federal money coming down to local law enforcement to fund these meth busts. They fully expect their populations to go up significantly in the next few years as a result. They are looking at a potential \$9 million deficit as

they end this year, but are not seeking a supplemental because they have mitigated the deficit through releases to community supervision, prerelease, and probation and parole. Caseloads for probation and parole will continue to go up, but they are not requesting an increase in staffing. They are comfortable with the level of funding in the Governor's budget. The Watch Program, The Missoula prison assessment center, and the Community Corrections program in Butte, all need to continue to demonstrate success. With this level of funding they believe they can initiate a new chemical dependency treatment center in Glendive if the closure of Eastmont proceeds. They believe they can advance their cause of public safety with the level of funding they have.

REP. FISHER advised \$209 million of the **Corrections** budget comes from the general fund, and this is one of the few agencies that cannot leverage federal funds. He stated it is public safety matter, and it is imperative in his mind they get the \$6.6 million out of **HB 750** when it passes.

REP. FISHER explained the **Department of Labor and Industry** has eleven different functions. He read the comparison of the Legislative budget to the Executive beginning on page D-59 of the Narrative, and the budget highlights on page D-60.

Kevin Braun, Department of Labor and Industry, expressed gratitude to the subcommittee. They eliminated the Job Registry Program from the department as a result of prioritization.

SEN. COONEY asked about the elimination of the Job Registry Program and the Apprenticeship and Training Program monies and the end result of that.

Mr. Braun, advised the Job Registry Program is designed to provide certain retraining services for state employees. It hasn't been heavily utilized in the past. Originally, there was a bill sponsored by **REP. FISHER** to eliminate the entire program. The **Department of Administration** volunteered to amend that legislation to undertake this function on a voluntary basis, so the program still exists in a scaled-back manner. The elimination of the \$140,000 for the Apprenticeship and Training Program is the remaining constructional monies. The program itself will remain intact. The money was dispersed to program sponsors, but now the sponsors themselves will pick up the cost of the training.

REP. FISHER moved on to the **Department of Military Affairs** on page D-78 of the Narrative. The Legislative Budget is \$46,000 total funds lower than the Executive Budget, although general

fund increases \$2.2 million over the biennium. The Youth Challenge Program is funded with general fund instead of employment security state special revenue funds. Continued funding for the National Guard Scholarship Program was approved and will cost about \$337,000. They applied unspecified general fund reductions to the Centralized Services, Disaster and Emergency Services, and Veteran's Affairs Divisions. The 1% reduction was \$83,000 for the biennium. He read the major budget highlights on page D-78 of the Narrative.

Brigadier General Randall Mosley, Department of Military Affairs, stated he is the Assistant Adjutant General of the Army National Guard. He described mobilizing units for deployment to the Middle East. He praised the soldiers and airmen in the district. The subcommittee fully funded the Executive budget for both the Army and Air National Guard. The department doesn't expect mobilizations to drop as the conflict in the Middle East goes on and reconstruction continues. He had concerns about the impacts of the budget and the unspecified reductions. Due to the 2002 special session and the 2003 cuts, the agency eliminated operating funds to the absolute minimum necessary. The Veteran's Affairs Division is administratively attached, and responsible for insuring 107,000 veterans in the state receive the entitlements and benefits they have earned. The unspecified reductions below the Executive Budget will force that division to close veteran's services offices and not provide assistance to those veterans. The Disaster and Emergency Services Division will have to close some of their offices, and not be able to provide training the counties have expected in the past when disasters occur. In the Centralized Services Division, 96% of the entire division expenditures are either for personal services or fixed costs. This would force the division to lay off three of five accounting employees. Even the Executive Budget would give that division only \$12,000 discretionary operating expenses for the entire year.

Questions from Committee Members and Responses:

SEN. BILL TASH asked about exploring other funding sources such as Homeland Security.

General Mosley advised they have received notification of impending funds. Some of that is grant funding that will help local responders, and will provide some money for that division, when and if they get it, which will allow them to keep some of those personnel. The removal of the general fund support would preclude those individuals from providing assistance to the counties for disasters.

Jim Greene, Administrator, Disaster and Emergency Services, advised some federal funds have come down for Homeland Security. So far, 100% of those funds have been passed through to local government for equipment for first responders for hazardous materials. They are in the process of applying for grants from Homeland Security that will provide some money for planning and training that may only be used for weapons of mass destruction, chemical, biological, nuclear, and explosives. As the new Department of Homeland Security is being formed, the funding they got from FEMA is going away. With FEMA, they had total flexibility. **{Tape: 2; Side: B}** Their concern is any general fund reduction is double because of the 50/50 cost share requirement with FEMA. They are looking at a 31% reduction in their total capabilities for all hazards since the special session.

SEN. BARKUS asked about the scholarship program.

General Mosley explained the scholarship program is a critical component of their ability to recruit and retain soldiers in the Montana National Guard. There are similar programs in other states. In the current biennium, their original proposal was for \$350,000. It was reduced in the Governor's Budget to \$250,000. In the special session that was reduced another \$10,000. There was an amendment in subcommittee to restore the funding, which is not in the Executive Budget, for the upcoming biennium for \$337,000.

SEN. BARKUS asked if they have need for additional recruits.

General Mosley indicated that over the last ten years, the strength of the Army National Guard has declined. If it declines too much, the National Guard soldiers will not be available for state emergencies like fires, floods, etc. Soldiers are paid with federal funds in the amount of \$1.4 million and state income tax is generated to the state.

SEN. JOHNSON asked about the number of students in the Challenge Program over the biennium and how many graduate. He wondered if they established a program of follow-up for students after they graduate.

General Mosley advised the Challenge Program is built on a model of two classes per year and graduating 100 students per class. They try to start the program with more than 100, because some of them will not have a strong commitment. They are trying to make a significant change in the lives of these individuals. They start with a pre-Challenge boot camp type program for three weeks at Fort Harrison, and some are screened out. They don't necessarily graduate 100, it may be about 90. There is a 12-

month mentoring phase following the residential phase. 86% to 87% of graduates stay on track and show positive life skill changes, are employed, and are contributing citizens of the state.

SEN. JOHNSON asked if those numbers are for the biennium or per year. **General Mosley** advised they are trying to graduate 400 for the biennium.

REP. FISHER added in the last three years, they graduated over 500 youngsters. Many have gone on to college. The community of Dillon is 100% behind this program. It not only benefits the youngsters. It costs the state about \$1.2 a year. Of that amount, \$600,000 goes back to the University at Dillon. He encouraged visiting Dillon to look at the program.

SEN. STONINGTON advised she had been reading the original budget analysis and presentation. She asked about comparing this with the Youth Force Investment Act Youth Program. The Challenge Program serves youngsters at \$14,000 a student. The Workforce Investment Act serves youngsters in a fairly comparable program at \$4900.

Todd Younkin, Legislative Fiscal Division, advised his knowledge of the Workforce Investment Act Youth Program is limited to what she read. It is tough to compare the two, as they operate under a different set of what youth they accept. When the **Department of Labor and Industry** testified about the WIAY program during the hearings on the Youth Challenge Program, they stated they would not be able to accommodate every youth that went through the Youth Challenge Program. The main difference is structure.

CHAIRMAN ZOOK advised the Youth Challenge Program is for at-risk youth, and the other program is another category.

Mr. Younkin advised the WIAY program tries to address at-risk youth. Two separate federal agencies provide the funds. The intent of the WIAY program is also to assist youth in job skills and obtaining a degree.

SEN. STONINGTON advised the WIAY program deals with at-risk students who are still in school. The Youth Challenge Program takes on students who have already dropped out.

REP. FISHER said he would be glad to furnish them with the information given to the subcommittee. In figuring the cost per student, the state cost per student should be considered. A high school student costs about \$6000 per year, and this program is about the same.

SEN. STONINGTON said she would also like to know what the state/federal match is in the WIAY program. She expressed concern that medications for the mentally ill are not being funded, and \$14,000 a year is spent for a few students.

REP. FISHER gave her a cost comparison.

CHAIRMAN ZOOK advised these are money saving programs that keep youth out of prison.

SEN. DEBBIE SHEA asked **Ingrid Childress, Department of Labor**, to address the committee.

Ms. Childress advised they administer the Workforce Investment Act programs. There is a youth funding stream in the WIA. The main difference between the programs in the WIA and the Youth Challenge, is the Youth Challenge is residential program. Therefore the costs will be much higher than when the youth remain in the communities and their homes. They serve some in-school youth and some dropouts. They may refer youth to the Youth Challenge Program or other services.

SEN. NELSON asked if there is a waiting list for the Youth Challenge Program.

General Mosley advised they have recruiters that visit high school guidance counselors, reservations, etc. They work with them to determine youth that would be good applicants for the program. They always have somewhat of a waiting list, but as they start one class, they are recruiting for the next.

SEN. NELSON asked if parents contribute at all to the program if they are able.

General Mosley advised the program is funded with 60% federal and 40% state. The average cost for graduates of the program is about \$6,441. For high school students the average cost is \$6,797. The only contribution is the 40% state match and 60% federal dollars. They try to solicit additional funds for scholarships for those who want to go to college through a foundation that has been established. Parents do not provide money.

CHAIRMAN ZOOK advised the state can't charge parents.

SEN. NELSON recalled the cost was \$14,000 per student. **General Mosley** clarified the state pays %40 percent or about \$6,441.

SEN. NELSON asked what percentage of enrollment is Native American.

REP. FISHER provided a list of where each graduate came from, and a great number of Native Americans have graduated from the program. The lists shows there are 117 towns in the state that have been touched by it. **EXHIBIT (fcs66a05)**

SEN. JON TESTER asked about the federal match for the WIA program.

Ms. Childress advised there is no matching for the WIA program. That money comes into their department through the US Department of Labor and goes to local boards and communities.

SEN. TESTER asked if they utilize all those federal dollars.

Ms. Childress advised they spend between 90% and 95%. The money is carried over into the next biennium.

SEN. TESTER asked what age groups are targeted.

Ms. Childress said there are two targeted age groups--ages 14-18, and older youth ages 19-21.

SEN. TESTER asked what age groups are targeted in the Youth Challenge Program.

General Mosley said primarily 16-18. **SEN. TESTER** asked if that could be expanded to 19-20 year olds.

Mike Royer, Director, Montana Youth Challenge Program, replied under federal guidelines, they are allowed to bring only 16-18 year olds into the program.

SEN. TESTER asked about the scholarship program and if they will use all \$337,000.

General Mosley advised they have a list of students who are waiting for awards from this program, that they are not able to fill.

SEN. TESTER asked if eligibility is for both the Army and Air National Guard in that program.

General Mosley indicated just those.

SEN. TESTER asked how many Youth Challenge students end up joining the Guards.

General Mosley guessed about 20% join the military. Of that 20%, a smaller percentage joins the guard. These youth need structure and discipline. Many of them seek active military service.

SEN. TESTER asked about dropouts in the Youth Challenge Program, and about the motivation to stay in the program.

General Mosley advised they cannot take adjudicated youth. These are youth whose life is lost. At some stage they decide they need to change something. They hear about the program through word of mouth. There are teachers, counselors, etc., to try to get the youth to continue even when they want to quit. It is hard to quit the program, and the difference in someone who completes the program is more than night and day.

REP. FISHER advised he discussed this program with two of the superintendents in the Flathead. They are aware of the program and use it as a tool.

SEN. TESTER said he had no doubt this is a great program, but expressed concern about followup.

General Mosley advised there is one-on-one contact after the youth graduates for followup. The mentors are just as concerned as **SEN. TESTER**. {Tape: 3; Side: A}

SEN. SCHMIDT advised in their subcommittee, they had the option of not funding the program at all, to using the ESA funds, or using general fund. She asked why they did not use ESA funds.

Mr. Younkin advised the vehicle was using the federal Reed Act funds to replace a certain number of ESA funds within the **Department of Industry**, and then using those freed up ESA funds to fund the Youth Challenge Program. The **Department of Labor and Industry** had some concerns that if Reed Act funding was used in other places, they may not be able to address concerns within the unemployment insurance portion of their department. The subcommittee decided in executive action to fund the Youth Challenge Program by a fund switch.

REP. FISHER advised the Reed Act funds were distributed by the federal government because unemployment commissions in many states were in dire straights and were given the one-time fix.

SEN. ED BUTCHER noted the WIA program picks up the kids who are troubled, and if they don't fit into that program, they come to the Challenge Program. If they don't wind up there, they wind up in Corrections.

General Mosley said he is not knowledgeable about the WIA program. As they assess youth in the Youth Challenge Program and compare it to characteristics of youth in the Correction system, they find those who come to the program have some of the same problems that led them to drop out of school as they find in youth in the Correctional system. Those youth are headed in that direction unless intercepted.

SEN. BUTCHER asked if a high percentage of those who drop out end up in Corrections.

General Mosley advised there had been instances where youth that dropped out ended up in Corrections.

SEN. BUTCHER thought there was value in trying to keep youth out the Corrections System.

General Mosley encouraged visiting the graduation ceremonies at Dillon to hear from youth that had completed the program.

SEN. BUTCHER said he visited with a former instructor who felt there needed to be a longer period of time at Fort Harrison.

General Mosley said the program is very structured. They have to pass requirements in order to graduate. They have no time of their own. In order to get everything done in the five months, they can't extend that time.

REP. FISHER advised he had covered the section.

- recess 10:05 -
- reconvene 10:16 -

Section E

REP. DON HEDGES advised for the **Office of Public Instruction** on page E-2 of the Narrative, the legislative budget is the same as the Executive recommendation. **OPI** will spend \$4.5 million in general fund each year of the biennium, and \$12 million in state special revenue funds. The office will hire 12-13 people with federal funding for the federal No Child Left Behind program. The K-12 distribution is \$5 million below what will be required, and will be picked up in a supplemental if **HB 750** does not pass. In the House, there were 19 pieces of legislation that affected K-12 funding. **EXHIBIT(fcs66a06)**

Superintendent Linda McCullough, OPI, thanked the subcommittee. There are 150,000 students in Montana, 12,047 certified staff, 441 school districts, and 870 public schools. She commended the

subcommittee for funding \$.5 million for statewide student assessment over the biennium. The \$800,000 biennial targeted expenditure reductions from this legislative session will reduce the agency's 2004-2005 biennial budget. Their state general fund budget is just over \$4 million a year. A reduction to the K-12 education agency budget means cuts in services and resources. She is waiting to see what bills pass, and what requirements will be placed on the agency. With the across the board reductions, the House cut the general fund appropriation to a level that is \$5.2 million below the present law budget, and she requested that be restored. There House passed an amendment in **HB 2** to fund a 5% increase for special education contingent on the passage of the tobacco tax. Based on revised estimates of federal funds, the full **House Appropriations** passed an amendment requested by her office to increase spending authority for federal funds for all school districts. She mentioned that recent world events make budget projections for FY 2005 doubtful. They anticipate federal funds for education will be reduced. President Bush's No Child Left Behind Act has very specific and comprehensive requirements, and Montana may not use federal funds to perform state level activities that are not federally required. She will look at opportunities to utilize these funding streams while also being aware it is a violation of federal law for Montana to supplant or replace state expenditures with federal funds. She vowed she will not mispend federal funds. It is her goal to minimize the impact of the budget cuts.

REP. HEDGES addressed the budget of the **Board of Public Education** on page E-18 of the Narrative. When the budget left the Subcommittee, it was \$9700 above the Executive Budget. **House Appropriations** took a 1% reduction for **DPHHS**. He urged the committee to leave the \$9700 above the Executive budget in place. There is a bill that will conduct a K-12 study and he thought it imperative the state school board be involved.

Steven Meloy, Board of Public Education, thanked the subcommittee for their work. He recounted areas they would like to have studied in the interim. If there is money that comes to education through other bills, there are areas that need funding including two more yearly meetings between the **Board of Public Education** and the **Board of Regents**.

SEN. ESP asked about a concern with accreditation standards and the cost of education.

Mr. Meloy advised they wanted to get all the parties identified in **HB 736** to come to the table to look at standards.

REP. HEDGES explained the budget for the **School for the Deaf and Blind** on page E-23 of the Narrative. The legislative budget is \$33,000 less than recommended by the Governor. He read the comparison between the legislative and Executive budgets. **HB 266** would remove the \$56,000 from the telephone tax, and he recommended it stay. He discussed the net impact of the 1% across the Board cut and noted there is a contingency in **HB 750** to make them whole.

SEN. JOHNSON advised **HB 266** had been in the **Energy Committee**, and they are trying to coordinate the bills. He wanted to hear what the **House Energy Committee** wants to do about that situation.

SEN. MCCARTHY advised the concern is the 24-hour staffing for the house for the children, and the decision was not easy for the subcommittee.

Steve Gettel, School for the Deaf and Blind, advised they recognize the problems the state is dealing with. He passed out information about the school. **EXHIBIT (fcs66a07)** His concerns with the budget reductions were with staffing and placing students. \$100,000 will come out of the operating budget. They cannot create vacancy savings in the education program or their student services program. They will have to leave positions open this year in other areas. They already reduced operating expenses after the special session. It would be difficult to put off buying supplies and books for two more years. **{Tape: 3; Side: B}**

Questions from Committee Members and Responses:

SEN. MCCARTHY asked **Mr. Gettel** to address the issue of federal funding.

Mr. Gettel advised the school receives some federal funding for school food services, etc.

Bill Sykes, Business Manager, School for the Deaf and Blind, advised they receive about \$27,000 in school reimbursement in federal money and there is approximately \$68,000 in federal funds budgeted in the education program. That includes about \$20,000 in Medicaid reimbursements for PT, OT, etc. They will have an accreditation review in the next biennium based on their five year school improvement plan.

SEN. STONINGTON asked **Mr. Sykes** how much money is spent per child at the school.

Mr. Sykes indicated the per capita costs is around \$53,000; the 24-hour staff impacts that to a large extent and involves 30 students. He contended that special education is expensive.

SEN. STONINGTON asked if this is twelve months a year, and **Mr. Sykes** indicated June 6th is their last school day. They run some summer camps for blind students with **OPI** grants.

REP. HEDGES described the funding for the **Arts Council** on page E-31 of the Narrative. He advised the **Arts Council** is \$46,000 below the Governor's recommendation. **HB 492** would cover legislative reductions, but the bill didn't get far. The result will be fewer visiting artists and writers in K-12.

Arnie Fishbaugh, Director, Montana Arts Council, thanked the subcommittee for a fine job, and for the package that would have restored the budget. The **Arts Council** general fund is equivalent to 3/100ths of 1% of the state budget. The cost for their general fund per Montanan per year is equivalent to about a half pack of gum. The reduction in **HB 2** totals \$78,000 in programs from their Fiscal Year 2003 original budget. This includes all state funding for arts education, it eliminates entirely the support for the Missoula Children's Theater and Shakespeare in the Parks, eliminates the Business Development Program for the arts community for marketing and technical assistance, and will eliminate one additional program as yet to be determined. This is the equivalent of over half of the **Arts Council's** grant programs. The damage is significant in this reduction. This is why the subcommittee action was so important to restore their budget. The Subcommittee recognized the significant value of the arts in Montana. One out of every eight people in Montana's labor market as the working artist. The subcommittee recognized the value of the arts in Montana's economy, how the arts revitalize communities and in education. They are hopeful an alternative to restoring their budget can be found and would be supported. **EXHIBIT(fcs66a08)**

SEN. STONINGTON asked the status of **HB 492**.

Director Fishbaugh advised **HB 492** failed in the House by a vote of 48-52.

SEN. STONINGTON asked how far they were below the Executive Budget without **HB 492**.

Director Fishbaugh advised they were below the Executive Budget by \$46,000. Included in the \$46,000 are federal entitlements, so there is still \$78,000 per year in program cuts.

SEN. STONINGTON asked if \$46,000 is for the biennium, and if there is an additional \$78,000 per biennium for grant monies.

CHAIRMAN ZOOK advised if they went with present law.

SEN. STONINGTON asked if that is additional to the \$46,000. **Director Fishbaugh** said it was included.

REP. HEDGES introduced the budget of the **Library Commission** on page E-32 of the Narrative. They are \$371,000 below the amount recommended by the Governor. **HB 177**, the Treasure State Endowment Fund transfer proposed by the Executive, was tabled in **House Appropriations**, so the **Library** will be restored up the Executive level. Of some concern to the subcommittee was the NRIS program, the interlibrary loan system, and the federation program, which works with local libraries to share the expense of periodicals and information technology critical to outlying areas.

Karen Strege, State Librarian, thanked **REP. HEDGES** and the subcommittee.

SEN. SCHMIDT asked about **HB 491**.

Ms. Strege advised the **House Appropriations Committee** tabled the bill.

REP. HEDGES explained the budget of the **Historical Society** on page E-39 of the Narrative. The agency is 1% below the level recommended in the Governor's proposal, as a result of the 1% budget transfer to social services. The probable affect will be a decrease in the number of hours the library is operable. They will depend more on volunteers. The Shriver Collection will remain secure, but \$34,000 in a small budget is a lot for a small agency to pick up.

Arnie Olsen, Director, Montana Historical Society, appreciated being put back to the Executive level in Subcommittee. They hope to have the 1% restored before the end of the session. They are looking at reducing their hours at the museum and library as well as several outreach programs and a grant program. They are doing this in the face of increased demand. Private giving is down substantially because of 9/11, and federal funds will decrease. He contended they can't stop recording history during the tough times. It is even more important to record history during these periods of time so future decision makers will have the information. They will do the best they can with what they have and remain optimistic for the future.

SEN. JOHNSON asked where the situation is for transferring the administration of the Heritage Commission.

Director Olsen advised it has passed through the Senate, and the House subcommittee passed moving the Heritage Commission from the Historical Society from Commerce. The transfer from **Fish, Wildlife, and Parks** was tabled. The impact financially is they will lose an additional \$92,000 for the biennium. With the 1%, they will be significantly below the Governor's level.

SEN. MCCARTHY said during the special session, legislation was passed to remove part of the tax write-off on gifts. She asked about the effect of that.

Director Olsen advised it is hard to separate 9/11 from the other action. They have had personal conversations with people who have withheld gifts as a result of the legislative action. The two together are not positive for giving.

SEN. MCCARTHY asked how they would handle the care of the donation from the Missoula carvers.

Director Olsen said they are the logical recipients because it is being given to the state of Montana. The decision was made to not have a permanent display in the Capitol. They have a couple of options.

SEN. MCCARTHY asked when they get gifts like this, do they get any financial help for the insurance, etc.

Director Olson indicated usually not. Occasionally they do, as in the instance of the Great Northern photographs from Warren McGee.

REP. HEDGES continued with the budget section for the **Commissioner of Higher Education** on page E-52 of the Narrative. The legislature adopted a budget for the University System that contains \$8.7 million more general fund than proposed. Contingency language in **HB 750** adds \$900,000 to the Community Colleges. A second amendment on the House floor would give the Fire Training Schools \$47,000 leeway to transfer money to buy equipment.

Carol Krause, Interim Commissioner Higher Education, advised he was surprised the **University System** has less general fund than when he left, and they have close to 3000 more students than at that time. He explained a handout comparing their present law base budget to the Executive recommendation and the legislative status without the contingencies. **EXHIBIT (fcs66a09)** They are

\$8.1 million below the Executive. The contingencies would approximately bring their budget back to the Governor's budget. He explained the federal funding is "phantom funding". S-138 proposed to give \$10 billion to all of the states to help offset Medicaid etc. Montana would have received \$24,292,000. More recently, federal legislation was introduced to make that number \$30 billion instead of \$10 billion. **{Tape: 4; Side: A}** He thought it unlikely the federal funding would materialize. He had no problem with it being there, but it should be asterisked as potential federal money. The community colleges would be \$115,000 less than the Governor's budget without the contingencies. He contended it is really difficult for those institutions to take those kinds of cuts from present law.

SEN. MCCARTHY asked about the money removed from the budget since it left the Subcommittee.

Commissioner Krause said 1% was removed from the lump sum appropriation.

SEN. MCCARTHY asked if there was more money removed.

Commissioner Krause said there wasn't more money removed, but there was money earmarked from the lump sum appropriation to the Dental Hygiene School in Great Falls and for the Student Assistance Program.

REP. HEDGES indicated page E-55 of the Narrative shows the activity in **House Appropriations**.

SEN. JOHNSON asked if the budget figures include the increase proposed in Worker's Comp.

Ron Sundsted, Associate Commissioner for Fiscal Affairs, advised they do not.

SEN. JOHNSON asked if that is about \$700,000 a year.

Mr. Sundsted believed it would be about \$600,000 a year in additional expenditures they don't have in personal services.

CHAIRMAN ZOOK asked if they have ever had that figure in their budget.

Mr. Sundsted indicated no. They are going through a renewal on Workers Comp and it came in about \$700,000 a year above their current level.

SEN. JOHNSON asked if they have never budgeted for Workers Comp in previous budgets.

Mr. Sundsted advised they did not budget for the increase. Part of that would be for food service workers, etc.

SEN. STONINGTON asked if the \$12.5 million reduction in the special session result in a dollar for dollar tuition increase.

Mr. Sundsted advised no. For the education units, the decision of the Regents is that no more than half could be backfilled with tuition increases, and the rest had to be dealt with through budget reductions. Some of the reductions were one-time, and they will have to find new reductions to make up for those.

SEN. STONINGTON asked how else those reductions are handled.

Mr. Sundsted replied everything from reducing money set aside for core sections, delaying or eliminating money set aside for new or expanded programs, and in some cases eliminating personnel. Each campus was given the latitude to come up with their own budget reductions.

SEN. STONINGTON asked if there had been any discussions among the regents about those reductions being permanent.

Mr. Sundsted advised there has not been a great deal of discussion about what portion would have to be dealt with through tuition.

SEN. ESP asked about the reduction in the lump sum and delaying the implementation of new programs or expansions. He wondered what percentage of the budget reductions were programs.

Mr. Sundsted advised he would put together a list.

SEN. STONINGTON asked about legislative action this session to the Extension Service and the Experiment Stations.

REP. HEDGES explained they budgeted the Extension Services at the Executive level. The Experiment Stations are fully funded. He thanked the committee for a good hearing.

- Recess 11:20 -
- Reconvene 3:07 -

CHAIRMAN ZOOK advised **HB 750** failed twice and there were amendments to deal with that situation.

Motion: SEN. BOB KEENAN moved TO AMEND HB 2 (HB000237.apj).
EXHIBIT(fcs66a10)

Taryn Purdy, Legislative Fiscal Division, advised the amendment is a technical amendment to correct clerical errors in the bill, etc.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved TO AMEND HB 2
(HB000203.atp). **EXHIBIT**(fcs66a11)

SEN. KEENAN advised the amendment reverses the 1% across the board reduction in House Appropriations Committee, and eliminates the additional funding provided through that reduction to the Department of Public Health and Human Services.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved TO AMEND HB 2 (HB000218.agh).
EXHIBIT(fcs66a12)

SEN. KEENAN explained the amendment removes contingent language in HB 2 that was contingent on passage and approval of HB 750. HB 750 failed with 68 votes in the House on third reading, was reconsidered with 74 votes.

SEN. STONINGTON asked about the rules, and if they can consider a third reading vote again within 24 hours.

SEN. KEENAN advised that is his understanding. There was discussion on the floor after that vote to leave it alone.

SEN. STONINGTON said the potential exists to redo the vote.

SEN. KEENAN advised if that is the case, they can always put this amendment back in.

Vote: Motion carried unanimously.

Motion: SEN. KEENAN moved TO AMEND HB 2 (HB 000231.agh).
EXHIBIT(fcs66a13)

SEN. KEENAN advised the amendment was offered on the House floor for anticipated federal funding. It removes language implementing SB 323, and \$7.8 million for various services in the Montana University System. The University System does not expect

the federal funds to happen and they prefer the money be taken out.

SEN. STONINGTON asked about the meaning of "unencumbered federal funding for general fund relief."

Ms. Purdy explained the state of Montana gets federal fund reimbursals that go into the general fund for fires, etc. Unencumbered federal funds means those funds that may be available to the state for fiscal relief.

SEN. STONINGTON indicated she didn't understand what the amendment on the House floor did.

Ms. Purdy advised it added general fund to the **University System** in case the state received federal funds. The amendment would take away that contingency.

SEN. MCCARTHY advised it is the money **Dr. Krause** was talking about that does not exist.

Vote: Motion carried unanimously.

Motion: **SEN. KEENAN** moved HB000230.ACS.

SEN. KEENAN advised the amendment would remove \$98,750 of general fund money for the 2005 biennium. It would eliminate 1 FTE for budget analyst position in the Water Resources Division of **DNRC**. **DNRC** unscrupulously hired **Legislative Fiscal Division Corrections and Public Safety Analyst, Lorene Thorson**, away from the **Legislative Fiscal Division** after April 11, 2003. He read the rest of the amendment. **EXHIBIT(fcs66a14)**

SEN. SCHMIDT commented **Ms. Thorson** was the staff person on their subcommittee and was outstanding. She hated to see her go.

Vote: Motion carried unanimously.

RECESS

Recess: 3:20 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs66aad)